



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: Jim Chapman
Regulatory and Legal Coordinator
Office of Board Relations
Department of Education

FROM: Ramona L. Taylor
Assistant Attorney General

DATE: September 22, 2022

RE: Global Changes to Chapters 770 and 820 of the Virginia Administrative Code

Thank you for your request for a review of the revisions to the Child Care Subsidy Program regulations. Please accept this letter as formal certification of the proposed changes.

Pursuant to §§ 22.1-289-02 and 22.1-289-02 of the *Code of Virginia (Virginia Code)*, the Virginia Department of Education has the authority to establish a statewide system for early childhood care and education and that system provides state and federal fund in support of select provider operations. Most specifically Virginia Code § 22.1-289-046 mandates that the Department adopt such regulations conducive to the welfare of the children under of the control of such child day program providers.

I have reviewed the proposed changes to the regulations which are required under Chapter 2 of the 2022 Acts of the Assembly for funds appropriated for the 2023-2024 biennium. The changes reflect the General Assemblies mandate to remove duration limits for families participating in the Child Care Subsidy Program, expand families which qualify for said program and direct additional funding for the program. These revisions are within the category of agency action contemplated within the Department's duties and authority and require changes to 8VAC-20-790 as specifically noted in the budget language.

It is further my view that this action remains subject to Governor Executive Order 14 (2018)¹, and that the Board has not exceeded its authority. This Executive Order has been replaced by Executive Order 19 (2022), which by its terms applies to regulatory activity initiated on or after July 1, 2022. The subject regulation was initiated prior to July 1, 2022, and so is not governed by EO 19 (2022).

Please feel free to contact me at (804) 786-0096 if you have any questions regarding this certification or if you require any additional information from me.